

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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LOREN MONTANO, et al.,

Plaintiffs,

-against-

SUFFOLK COUNTY LEGISLATURE, et al.,

Defendants.

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ORDER

CV 03-1506 (DLI)(ARL)

LINDSAY, Magistrate Judge:

Before the court is the defendants' sur-reply in opposition to the plaintiffs' motion for attorneys' fees and the plaintiffs' letter requesting that the court reject the sur-reply, both dated November 10, 2005. By way of background, on August 1, 2005, this matter was referred to the undersigned by District Judge Irizarry for the purpose of issuing a report and recommendation with respect to the plaintiffs' claim for attorneys' fees following the dismissal of the plaintiff's complaint. By order dated August 4, 2005, the plaintiffs were directed to serve and file papers in support of their damages claim by September 29, 2005, including a memorandum of law and an affidavit from a person with knowledge of the relevant facts. Thereafter, the plaintiffs requested additional time to submit supporting papers until October 21, 2005. That request was granted. The court also extended the time for the defendants to submit opposition to the amounts sought until November 4, 2005.

After receipt of the plaintiffs' moving papers and the defendants' opposition, the plaintiffs submitted an eleven page reply with exhibits. Although the court did not provide time for the plaintiffs to reply in its briefing schedule, the court did not reject the reply because reply affidavits and memorandum of law are typically permitted when a movant submits a motion on notice. *See* Local Rule 6.1; *c.f.* Local Rule 37.3 (no reply is accepted on letter motions). However, the court's acceptance of the plaintiffs' reply did not open the door for the defendants to submit a sur-reply memorandum without permission, nor does the court believe that a sur-reply is necessary. Accordingly, the defendants' sur-reply is rejected.

Dated: Central Islip, New York
November 14, 2005

SO ORDERED:

_____/s/_____
ARLENE ROSARIO LINDSAY
United States Magistrate Judge